

**THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

MICHAEL AND SHELLIE GILMOR,
et al.,

Plaintiffs,

vs.

PREFERRED CREDIT CORPORATION,
et al.,

Defendants.

Case No. 4:10-cv-00189-ODS

**MOTION TO FILE JOINT SUGGESTIONS IN EXCESS OF 15 PAGES
IN OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS PLAINTIFFS'
SIXTH AMENDED PETITION FOR LACK OF JURISDICTION**

Plaintiffs respectfully move the Court for an Order permitting them to file a joint set of Suggestions of no more than 75 double-spaced, typewritten pages in opposition to Defendants' multiple motions to dismiss for lack of personal jurisdiction (Doc. 75, Ex.'s 13-15; Doc. 67, 68) on the grounds that good cause exists for such an Order given the complexity of this class action and the number of defendants, issues, authorities, loan and investment transactions, and exhibits involved. Plaintiffs have done their level best to cull and condense the issues and arguments, but have concluded in good faith that they will need up to 75 pages to adequately explain why Defendants' motions to dismiss should be denied. In support of this motion, Plaintiffs state as follows:

1. Plaintiffs are faced with **four (4) separate motions** to dismiss filed by **13 Defendants** (the "Moving Defendants"). The Motion and Suggestions filed by Empire Funding Home Loan Owner Trust 1998-1 and Defendants US Bank National Association and Wilmington Trust Company as the co-trustees of the Trust 1998-1, are **23 pages** long. (Doc. 75, Ex. 13) The

Motion and Suggestions of Defendants Preferred Mortgage Trust 1996-1, Preferred Mortgage Trust 1996-2, Preferred Credit Trust 1997-1 (the “Preferred Trusts”), and Deutsche Bank Trust Company Americas (f/k/a Bankers Trust Company) in its capacity as trustee of the Preferred Trusts are **25 pages** long. (Id., Ex. 15). The Motion of Defendants Credit-Based Asset Servicing and Securitization, LLC, IMH Assets Corporation, IMPAC CMB Trust Services 2003-2005, LaSalle National Bank and Litton Loan Servicing, L.P. is only **2 pages** long, and merely incorporates the Suggestions filed by Defendant Empire Trust 1998-1 and its trustees (Id., Ex. 14); but Plaintiffs must still describe and address the involvement of, and direct their arguments toward the Missouri activities and contacts of these five additional defendants. In addition to these motions, Defendant Credit Suisse First Boston Mortgage Securities has filed a separate motion to dismiss and devotes approximately **24 pages** to the issue of personal jurisdiction. (Doc. 67, 68).

2. A 75-page set of joint suggestions to address four (4) separate motions filed by thirteen (13) defendants is reasonable (and only 15 pages more than if four (4) separate responses to the motions were filed).

3. Given the complexity of the issues and the arguments made, the truly exceptional number of cases and other authorities cited, the number of loan and investment transactions and exhibits involved, and the number of defendants and discovery responses relevant to the motions, Plaintiffs need more than 15 pages to oppose each motion. Plaintiffs respectfully request that the Court permit them to file a set of joint suggestions in opposition to all four motions to dismiss of up to 75 pages in total.

4. This motion for excess pages is made in good faith and not for any dilatory purpose. Plaintiffs sincerely believe that the requested number of pages is needed to adequately

apprise the Court of each Defendant's interests in the subject loans and contacts with and activities within the state of Missouri. Plaintiffs also note that several "pages" of their joint suggestions will consist of headings and block quotes to the pertinent statutes, cases and prior court rulings. Thus, Plaintiffs' arguments will be considerably less than 75 pages. The Court should also take into account that the case has a 10 year history, with numerous filings and discovery requests.

5. Similar motions to dismiss were filed by the assignee defendants in two substantially similar Missouri second mortgage class actions, *Couch v. SMC Lending, Inc.*, CV100-4332CC (Mo. Cir. Ct.) (Clay County) and *Baker v. Century Financial Group, Inc.*, CV100-4294CC (Mo. Cir. Ct.) (Clay County). The plaintiffs' joint suggestions in opposition to the motions to dismiss in those two cases were 63 and 74 pages long, with 65 and 126 exhibits, respectively.

6. Plaintiffs have apprised counsel for Defendants of this motion and request for excess pages via e-mail today. Plaintiffs have filed this motion before receiving any responses given the impending deadline for the subject Suggestions and the large number of defendants to be heard from.

7. This motion for excess pages will not unfairly prejudice any Defendant, Moving and Non-Moving alike.

WHEREFORE, Plaintiffs respectfully request the Court to find that cause has been shown and enter an Order permitting them to file a joint set of Suggestions of no more than 75 pages in opposition to Defendants' pending motions to dismiss for lack of personal jurisdiction (Doc. 74, Ex.'s 13-15; Doc. 67, 68). This is only 15 pages more than if four (4) separate responses were filed.

Dated: November 15, 2010

Respectfully Submitted,

WALTERS BENDER STROHBEHN
&. VAUGHAN, P.C.

By /s/ Kip D. Richards

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document was filed electronically with the Clerk of the United States District Court for the Western District of Missouri, Western Division, this 15th day of November 2010, with notice of case activity to be generated and sent electronically to all designated persons.

/s/ Kip D. Richards